

As recommended by the 9/11 Commission, through this section, the Department of Homeland Security will be promoting private-sector preparedness of which the 9/11 Commission said: "Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world."

*Section 902. Responsibilities of the Private Sector Office of the Department*

There is no comparable House provision.

Section 802 of the Senate bill amends section 102(f) of the Homeland Security Act to add promoting to the private sector the adoption of voluntary national preparedness standards to the responsibilities of the Special Assistant to the Secretary. It also establishes a new responsibility for the private sector advisory councils: advising the Secretary on private sector preparedness issues.

The Conference substitute adopts the Senate provision with minor modifications.

**TITLE X—CRITICAL INFRASTRUCTURE PROTECTION**

*Section 1001. National Asset Database*

Section 902 of the House bill requires the Secretary of the Department of Homeland Security (the Department or DHS) to maintain two databases addressing critical infrastructure: the National Asset Database and, as a subset, the National At-Risk Database. To develop the National Asset Database and the At-Risk Database, the Secretary will meet with a consortium of national laboratories and experts. The Secretary is required to annually update both databases and remove assets and resources that are not verifiable or do not comply with the database requirements. The Secretary will also meet with the States and advise them as to the format for submitting assets for the lists and notifying them as to deficiencies before removing or omitting assets from the lists. This provision also requires the Secretary to consult the Databases for purposes of allocating various Department grant programs and to provide an annual report to Congress on the contents of the Databases.

Section 1101 of the Senate bill requires the Secretary to establish a risk-based prioritized list of critical infrastructure and key resources that, if successfully destroyed or disrupted through a terrorist attack or natural catastrophe, would cause catastrophic national or regional impacts. The list must be reviewed and updated at least annually. The provision also requires an annual report summarizing the construction and contents of the list. The report may include a classified annex.

The Conference substitute adopts the House provision with certain modifications. The Conferees determined that there is a uniform manner by which to compile the country's vital assets and to prioritize those assets, as called for in Homeland Security Presidential Directive-7. This process will enable a more effective cooperation with State and local governments and provide a means by which the appropriate Congressional Committees may annually review the prioritized list as well as receive a report about the database and list.

The Conference substitute modifies the House provision to require the Secretary to maintain a prioritized critical infrastructure list, as called for in the Senate bill, instead of the National At-Risk Database. Furthermore, the Conference substitute authorizes the Secretary to form an optional consortium to advise on the Database, but did not make the formation of such a consortium mandatory.

*Section 1002. Risk assessments and report*

Section 901 of the House bill requires the Secretary to prepare a vulnerability assessment of the critical infrastructure informa-

tion available to the Secretary with respect to that fiscal year, unless a vulnerability assessment is required under another provision of law. The Secretary must provide annual comprehensive reports on vulnerability assessments for all critical infrastructure sectors established in Homeland Security Presidential Directive-7. This provision requires the Secretary to provide the appropriate Congressional Committees with a summary vulnerability report and a classified annex for each industry sector. This provision also requires the Department to provide a summary report from the preceding two years to compare with the current report to show any changes in vulnerabilities and provide explanations and comments on greatest risks to critical infrastructure for each sector and any recommendations for mitigating these risks.

Section 1102 of the Senate bill requires the Secretary, for each fiscal year, to prepare a risk assessment of the critical infrastructure and key resources of the United States. It requires that the risk assessment be organized by sector and that it contain any actions or countermeasures proposed, recommended, or directed by the Secretary to address security concerns covered in the assessment. It enables the Secretary to rely upon other assessments prepared by another Federal agency that the Department determines are prepared in coordination with other initiatives of the Department relating to critical infrastructure or key resource protection. It also requires the Secretary to submit an annual report to the relevant Congressional Committees that contains a summary and review of the risk assessments prepared by the Secretary for that year. The report will be organized by sector and will include the Secretary's recommendations for mitigating risks identified by the assessments.

The Conference substitute adopts a compromise provision by eliminating the requirement for the Secretary to conduct risk assessments under this section because those same assessments are required to be conducted under the Homeland Security Act. The Conference substitute requires the Secretary to provide a report on the comprehensive risk assessments on critical infrastructure that the Department is already required to conduct under the Homeland Security Act.

Further, the Conference desires that, if appropriate, the report or reports be furnished in a public form with a classified annex. Furthermore, the Conference intends that the classification of information required to be provided to Congress or shared between the Department and any other sector-specific department or agency pursuant to this new paragraph, including the assignment of a level of classification of such information, shall be binding on Congress, the Department, and any other Federal Department or Agency. With regard to these assessments, the Homeland Security Act requires the Secretary to conduct the assessments with respect to the nation's critical infrastructure and key resources. The Conference intends for the Secretary to exercise his responsibilities under the Homeland Security Act and make a timely report to Congress. Through this section, the Conference does not intend to make any changes to the Secretary's authority under section 201 of the Homeland Security Act. The section requires the Secretary to submit a set of reports to the Senate Committee on Homeland Security and Governmental Affairs and the House of Representatives Committee on Homeland Security as well as other appropriate Congressional Committees containing a summary and review of the assessments prepared by the Secretary, as already required by the Homeland Security Act.

*Section 1003. Sense of Congress regarding the inclusion of levees in the National Infrastructure Protection Plan*

There is no comparable House provision.

Section 1101 of the Senate bill requires the Secretary to include levees in the Department's list of critical infrastructure sectors.

The Conference substitute adopts the Senate provision, while modifying it so that it is the sense of Congress that the Secretary should ensure that levees are included in one of the critical infrastructure and key resource sectors identified in the National Infrastructure Protection Plan.

**TITLE XI—BIOLOGICAL AND NUCLEAR DETECTION**

*Section 1101. National Biosurveillance Integration Center*

There is no comparable House provision. However, the House passed, on a bipartisan basis, a very similar provision as part of H.R. 1684, "the Department of Homeland Security Authorization Act for Fiscal Year 2008."

Section 701 of the Senate bill provides for the authorization of a National Biosurveillance Integration Center (NBIC) within the Department of Homeland Security (the Department or DHS). The primary mission of the NBIC is to enhance the situational awareness of the Federal Government of intentional and naturally occurring biological incidents of national concern, and to rapidly alert Federal, State and local entities of such incidents.

The Conference substitute adopts the Senate provision, with technical modifications.

In order to best achieve its mission, the Conference directs that NBIC Member Agencies to send all information that could indicate a biological incident of national concern, including protected health information from member agencies which are Public Health Authorities as defined by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, to the NBIC.

*Section 1102. Biosurveillance efforts*

There is no comparable House provision.

Section 702 of the Senate bill requires the Comptroller General of the United States to report to Congress on Federal, State, and local biosurveillance efforts, any duplication of such efforts, and recommendations on integration of systems and effective use of resources and professional expertise.

The Conference substitute adopts the Senate provision, with technical modifications.

*Section 1103. Interagency coordination to enhance defenses against nuclear and radiological weapons of mass destruction*

There is no comparable House provision.

Section 703 of the Senate bill requires the Secretaries of Homeland Security, State, Defense, Energy, the Attorney General and the Director of National Intelligence to jointly ensure interagency coordination on the development and implementation of the global nuclear detection architecture by completing a joint annual interagency review of matters relating to the global nuclear detection architecture, which shall be submitted to the President and the appropriate Congressional Committees.

The Conference substitute adopts the Senate provision, with technical modifications.

*Section 1104. Integration of detection equipment and technologies*

There is no comparable House provision.

Section 1607 of the Senate bill requires the Secretary of Homeland Security to ensure that chemical, biological, radiological, and nuclear detection equipment and technologies are integrated as appropriate with other border security systems and detection technologies, and requires the Secretary to develop a departmental technology assessment process and report the process to Congress within 6 months of enactment.